

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Robertson, et al.	
Application No.: 10/601118	Art Unit: 3626
Filed: 6/23/2003	
Title: Risk Classification Methodology	Examiner: R. David Rines
Attorney Docket No.: RF010906USNP	
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	

RESPONSE AFTER FINAL

Dear Examiner Rines:

In response to the Office Action of February 5, 2008, please consider the following remarks in light of the amended claims submitted herewith.

## REMARKS

### ***Examiner Interviews***

The Applicant wishes to thank the Examiner for the courtesy extended during the telephonic interview of February 20, 2008. During said interview, the office action dated February 5, 2008 was discussed. Agreement was reached on the following items:

- The 112 rejections could be overcome by certain amendments to the claims. Said amendments have been made;
- The Examiner would reconsider the 103 rejections of the currently pending claims in light of said amendments;
- The specific personality traits and questions recited in claims 45 and 47 respectively functionally contribute to the concrete, useful and tangible result of automatically classifying prospective insureds into risk classes.

### ***Amended Claims***

The Applicant has amended claim 37 to address the 112 rejections.

Referring to claim 37:

- Step a. of claim 37 has been amended to replace the phrase *"four or more questions that tap into personality traits that may affect accident involvement and reporting"* with the phrase *"four or more target questions"*.
- Step b. has been amended to replace the phrase *"four or more questions"* with the phrase *"four or more target questions"*.
- The "wherein" limitation has been amended to replace the phrase *"four or more questions"* with the phrase *"four or more target questions"*.
- Step d. has been amended to replace the phrase *"composing a survey of 50 or more questions that tap into personality traits"* with the phrase *"composing a survey of 50 or more candidate questions that are indicative of personality traits"*.
- Step g. has been amended to use the *"target questions"* and *"candidate questions"* terminology introduced above.
- Step g. has been further amended to replace the phrase *"being significant to at least the 5% level"* with the phrase *"being statistically significant to at least the 5% level of confidence"*.

Claims 38, 39 and 44 have been amended to use the *"target questions"* terminology of claim 37.

Claim 46 has been amended to use the *"candidate question"* terminology of claim 37.

### ***Claim Rejections – 35 USC 112***

The Examiner has rejected claims 37-39 and 44-47 under 35 USC 112, second paragraph.

Regarding claim 37:

- The Examiner has asserted that it is unclear what the phrase *"tap into"* means in the context of the current invention. During the interview of February 20, the Examiner and the Applicant agreed that the phrase *"are indicative of"* is a suitable replacement for the phrase *"tap into"*. Applicant has therefore eliminated the phrase *"tap into"* from step a. and replaced the phrase *"tap into"* with the phrase *"are indicative of"* in step d.
- The Examiner has asserted that the phrase *"may affect"* as used in steps a. and d. render the claim as a whole indefinite. The Applicant has eliminated the phrase *"may affect"* from step a. With respect to step d., the Examiner and the Applicant reached agreement during said interview that the phrase *"may affect"* is appropriate as used therein.
- The Examiner has asserted that the phrase *"at least the 5% level"* lacks antecedent basis. Furthermore, it is unclear what said phrase means. The Applicant has replaced the phrase *"significant to at least the 5% level"* with the phrase *"statistically significant to at least the 5% level of confidence"*. The Applicant and the Examiner reached agreement during said interview that this amended phrase renders the claim definite.

Claims 38 – 39 and 44 – 47 depend upon claim 37 have been amended to be consistent with the amendments to claim 37.

Claims 37 – 39 and 44 – 47, therefore cannot be rejected under 35 USC 112 second paragraph.

### ***Claim Rejections – 35 USC 103***

The Examiner has rejected claims 37 – 39 and 44 - 47 under 35 USC 103(a) as being unpatentable over Haner in view of Lajunen and DeTore.

With respect to claim 37:

- The Examiner has asserted that Haner discloses the step of *“providing to said prospective insured a set of questions that tap into personality traits that may affect accident involvement and reporting”* (prior step a.). The Applicant has traversed this rejection by amending step a. to better clarify its meaning. Step a. currently reads *“providing to said prospective insured a set of four or more target questions”*. Said target questions are limited to those that are developed by the survey method recited in steps d. to g. Haner does not teach or suggest that the questions he employed as target questions (i.e. “attitude inventory”, Haner, p 50, paragraph 4) were developed by any of said steps d. to g.
- The Examiner has asserted that, under his best interpretation of the recited claim language, Lajunen’s correlation method reads on prior step g. The Applicant has traversed this rejection by amending step g. to better clarify its meaning. The Applicant further observes that Lajunen failed in his attempt to correlate Traffic Specific Measures of personality (e.g. DE, DI, Motive) with self reported accidents after conventional underwriting criteria were controlled for (e.g. sex and experience (Lajunen, p 312, paragraph 1)). This is shown in the last row of Table 4 of Lajunen where none of the correlation coefficients were statistically significant to at least the 5% level (i.e. None of the entries had a \* to indicate that  $P < .05$ ).

Thus claim 37 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTore.

With respect to claim 38, the Examiner has asserted that Lajunen discloses a method wherein said set of four or more questions comprises not more than ten questions. The Applicant has traversed this rejection by amending claim 38 to better clarify its meaning. Lajunen does not teach or suggest that his target questions (i.e. “Driving Specific Questionnaire”, Lajunen, p 308, paragraph 9) were limited to not more than 10 questions. On the contrary, Lajunen’s Driving Specific Questionnaire consisted of 105

target questions (i.e. "items"). Thus claim 38 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 39, the Examiner has asserted that Lajunen discloses a method wherein said set of four or more questions comprises not more than four questions. The Applicant has traversed this rejection by amending claim 38 to better clarify its meaning. The Applicant agrees that Lajunen does employ three sets of 4 items each to measure Levenson's "Internality", "Chance" and "Powerful Others" personality measures, but he doesn't analyze his results to determine if there is a correlation between said personality measures and accident rates. (See Lajunen, Table 4) A person of ordinary skill in the art, therefore, would have no evidence that four questions of any nature would be sufficient. Thus claim 39 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

The Examiner has noted that Lajunen provides instances of multiple surveys employing 4 – 20 questions and has submitted that the specific number of questions constitutes a design choice as evidenced by the different statistical measures provided.

The Examiner appears to be suggesting that the number of items that Lajunen used to measure each one of his Traffic Specific Measures (e.g. DE, DI, etc.) was an arbitrary choice. The Applicant respectfully disputes this assertion and refers the Examiner to Lajunen, page 309, paragraph 1, wherein he states:

For our study, we adopted 20 items from Hatakka et al. (1991, 1992). Furthermore, **due to the fact that the two original factors - defensive and other skills - of Spolander (1983) and Hatakka et al. (1991, 1992) overlapped somewhat, we added 9 items** to measure motivational factors to meet the Näätänen-Summala (1974, 1976) model of skill and motivational determinants of driver behavior (also Hyvén & Summala, unpublished data, 1990). (emphasis added)

Lajunen teaches that a minimum of 29 items are needed to measure "defensive and other skills". This teaches away from the number of items required to measure any particular trait being a mere design choice and would not motivate a person of ordinary skill in the art to reduce the number of items from Lajunen's minimums to 10 or 4 questions.

With respect to claim 44, the Examiner has asserted that Haner teaches:

in said step of classifying said prospective insured into a risk class based at least in part on said set of responses to said four or more questions, also basing said classification of said prospective insured at least in part on and said set of responses to said second set of questions

The Applicant has traversed this rejection by amending claim 44 to better clarify its meaning. Haner does not teach the step of classifying a prospective insured based on responses from a set of target questions (i.e. "attitude inventory", Haner, p 50, paragraph 4) plus the responses from a second set of questions (i.e. "personal history form", Haner, p 51 paragraph 2). Haner specifically states "*...the personal history form is not used for rating purposes...*" (Haner, p 51, paragraph 2). Furthermore, Haner teaches away from said step when he states:

Casualty underwriters have progressively moved away from the practice of spreading risk over a broad heterogeneous base toward a policy of spreading it over more narrowly defined homogeneous groupings. Age, sex, marital status, zone, vehicle characteristics, prior loss experience and driver training are among the commonly used bases for establishing rate groupings. Combinations of these rating factors are frequently used, resulting in virtually hundreds of sub-groups of insureds and an extremely complicated rating structure.

**Recently Grinnell Mutual Reinsurance Company has moved in a direction reversing this trend. If successful, this approach could result in a single rating variable.** GMRC has taken the position that the attitudes and personality traits of an applicant importantly influence his behavior (e.g. how he drives) and consequently have a direct causal relationship to the risk he represents. By assessing these attitudes through psychological testing devices, accident susceptibility can be predicted and applicants can be placed at various risk levels. **If this proves out, only the risk level of the applicant and the valuation of the coverage would need enter into determination of premium.** (Haner, p 49, paragraphs 1, 2, 3, emphasis added)

A person of ordinary skill in the art in view of Haner, therefore, would be motivated to avoid combining target questions and the second set of questions as claimed by the

Applicant. Thus claim 39 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 45, the Examiner has asserted that Lajunen discloses a method wherein said personality traits comprise:

- a. impulsivity;
- b. locus of control;
- c. self-esteem;
- d. invulnerability;
- e. hostility;
- f. anger;
- g. trust;
- h. social desirability; and
- i. thoroughness in decision making.

The Applicant respectfully disagrees. Lajunen does not disclose a method comprising all of said personality traits. "Impulsivity", for example, is not found in Lajunen. Thus claim 45 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 46, the Examiner has asserted that Lajunen, page 310, paragraph 2 discloses a personal statement with which a person is asked to indicate agreement or disagreement. The Applicant respectfully disagrees. The text of Lajunen, page 310, paragraph 2 reads:

*The attitude to driving.* The attitude towards driving was measured by the simple question ("What does driving mean to you?") to which the Ss answered by choosing among four alternatives which were: "I am afraid of driving, and I try to avoid it" (1), "Sometimes I have to drive, but generally, I prefer public transport" (2), "To me driving is, after all, a way to move from one place to another" (3), and "I enjoy driving" (4).

The sentence "*What does driving mean to you?*" is a question. It is not a statement that a person can indicate agreement or disagreement with. Thus claim 46 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

With respect to claim 47, the Examiner has asserted that Lajunen discloses a method wherein at least one of said personal statements is based on at least one of the statements recited said claim 47. The Applicant respectfully disagrees. None of said statements are found in Lajunen. Thus claim 47 cannot be rejected under 35 USC 103(a) as being obvious in light of Haner in view of Lajunen and DeTorre.

#### ***Non-functional data elements***

The Examiner has noted that he considers various limitations recited in the claims as being non-functional data elements (e.g. specific questions or traits). In the above referenced interview, the Applicant and Examiner reached agreement that said limitations were indeed functional.

#### ***Moot Rejections***

In this response, the Applicant makes no admission concerning any now moot rejections or objection, and affirmatively denies any position, statement, or averment of the Examiner that was not specifically addressed herein.



### CONCLUSION

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mark Nowotarski, Applicants' Agent at 203 975 7678 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Mark Nowotarski".

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